

NEBRASKA DRIVING UNDER THE INFLUENCE (DUI) LAW

(If convicted of DUI in Nebraska the following penalties will apply:)
Revised July 26, 2006

Class W Misdemeanor

First Offense - § 28-106 & § 60-6,197.03 (1)

Maximum: 60 days in jail
6-month license revocation
\$500 fine

Mandatory Minimum: 7 days in jail
6-month license revocation
\$400 fine

If Probation: 60-day license revocation
\$400 fine

Second Offense - § 28-106 & § 60-6,197.03 (3)

Maximum: 90 days in jail
1-year license revocation
\$500 fine

Mandatory Minimum: 30 days in jail
1-year license revocation
\$500 fine

If Probation: 10 days in jail or not less than 240 hours of community service
1-year license revocation
\$500 fine

Third Offense - § 28-106 & 60-6,197.03 (4)

Maximum: 1 year in jail
15-year license revocation
\$600 fine

Mandatory Minimum: 90 days in jail
15-year license revocation
\$600 fine

If Probation: 30 days in jail
2 – 15 year license revocation
\$600 fine

Fourth Offense - § 28-105 & § 60-6,197.03 (7)

Maximum: 5 years in jail
15-year license revocation
\$10,000 fine

Mandatory Minimum: 180 days in jail
15-year license revocation

If Probation: 90 days in jail
15-year license revocation
\$1,000 fine

Class III Felony

Fifth Offense - § 28-105 & § 60-6,197.03 (9)

Maximum:	20 years in jail 15-year license revocation \$25,000 fine
Mandatory Minimum:	1 year in jail 15-year license revocation
If Probation:	180 days in jail 15-year license revocation \$1,000 fine

A person convicted of DUI will also have to pay for an alcohol assessment during a presentence evaluation and if ordered by the judge to attend an alcohol treatment program. The treatment program can cost over \$3,000 and will be at the expense of the person convicted of DUI - § 60-6,197.08.

In addition to the above penalties, all vehicles owned by a person convicted of a second or subsequent DUI violation will be immobilized at the owner's expense for a period not less than five days and not more than eight months. Immobilization means revocation or suspension of the registration of motor vehicle(s), including the license plates. As an alternative to the immobilization provisions, the court shall require the installation of an ignition interlock on each of the owner's motor vehicles - § 60-6,197.01. A person may also be required to use a continuous alcohol monitoring device - § 60-6,197.01

NEBRASKA DRIVING UNDER THE INFLUENCE (DUI) LAW

Alcohol BAC Level .15 or Higher

(If convicted of DUI in Nebraska the following penalties will apply:)

Class W Misdemeanor

First Offense - § 28-106 & § 60-6,197.03 (2)

Maximum:	60 days in jail 1-year license revocation \$500 fine
Mandatory Minimum:	7 days in jail 1-year license revocation \$400 fine
If Probation:	1-year license revocation or impoundment \$500 fine 2 days in jail or not less than 120 hours of community service

Class I Misdemeanor

Second Offense - § 28-106 & § 60-6,197.03 (5)

Maximum:	1-year in jail 15 – year license revocation \$1,000 fine
Mandatory Minimum:	90 days in jail 1-year license revocation

If Probation:	30 days in jail 1- 15 year(s) license revocation or impoundment \$1,000 fine
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Class IIIA Felony

Third Offense - § 28-105 & 60-6,197 (6)

Maximum:	5 years in jail 15-year license revocation \$10,000 fine
Mandatory Minimum:	180 days in jail 15-year license revocation
If Probation:	60 days in jail 5 – 15 year license revocation \$1,000 fine

Class III Felony

Fourth Offense - § 28-105 & § 60-6,197.03 (8)

Maximum:	20 years in jail 15-year license revocation \$25,000 fine
Mandatory Minimum:	1 year in jail 15-year license revocation
If Probation:	120 days in jail 15-year license revocation \$1,000 fine

Class II Felony

Fifth Offense - § 28-105 & § 60-6,197.03 (10)

Maximum:	50 years in jail 15-year license revocation
Mandatory Minimum:	1 year in jail 15-year license revocation
If Probation:	180 days in jail 15-year license revocation \$1,000 fine

A person convicted of DUI will also have to pay for an alcohol assessment during a presentence evaluation and if ordered by the judge to attend an alcohol treatment program. The treatment program can cost over \$3,000 and will be at the expense of the person convicted of DUI - § 60-6,197.08.

In addition to the above penalties, all vehicles owned by a person convicted of a second or subsequent DUI violation will be immobilized at the owner's expense for a period not less than five days and not more than eight months. Immobilization means revocation or suspension of the registration of motor vehicle(s), including the license plates. As an alternative to the immobilization provisions, the court shall require the installation of an ignition interlock on each of the owner's motor vehicles - § 60-6,197.01. A person may also be required to use a continuous alcohol monitoring device - § 60-60-6,197.01

DUI Violation & Motor Vehicle Crash
Serious Bodily Injury to Another Person

Class IIIA Felony - § 28-105 & § 60-6,198

Maximum: 5 years in jail
60-days to 15-year license revocation
\$10,000 fine

Mandatory Minimum: 60-days to 15-year license revocation

Motor Vehicle Homicide

Class III Felony (no prior DUI conviction) - § 28-105 & § 28-306 (3)(b)

Maximum: 20 years in jail
1 year to 15-year license revocation
\$25,000 fine

Mandatory Minimum: 60-days to 15-year license revocation
1-year in prison

Class II Felony (prior DUI conviction) - § 28-105 & § 28-306 (3)(c)

Maximum: 50 years in jail
15-year license revocation

Mandatory Minimum: 1 year in jail

NEBRASKA'S ADMINISTRATIVE LICENSE REVOCATION LAW

(60-498.01 through 60-498.04)

The Administrative License Revocation Law (ALR) allows a law enforcement officer to confiscate the license of a drinking driver on the spot when certain conditions are met. The ALR is applied administratively by the Department of Motor Vehicles. The penalties for the ALR are separate and distinct from any penalties assigned by the court for a conviction of drunk driving exceeding .08 blood alcohol concentration level or a conviction for driving under the influence.

The procedure for the ALR is as follows:

1. The police officer pulls over the suspected drunken driver. If the driver acts drunk or performs poorly on field sobriety tests, the officer arrests the motorist for driving while under the influence.
2. The driver is asked to take breath, blood, or urine test.
3. If the driver fails or refused the test, the officer immediately impounds the license and tells the driver that the license will be revoked in 30 days.
4. The officer provides the driver with a 30-day driving permit and information regarding administrative hearing.
5. **If the driver refused the test, the license is automatically revoked for one year.**
6. **If the driver fails the test, the license is revoked for 90 days for a first offense. Second offense is a 1 year revocation.**

7. The driver may request a hearing and the Department of Motor Vehicles schedules one within 20 days of the receipt of the request.
8. At the hearing, the driver may only present evidence that he or she did not fail or refuse to take the test.
9. If the Director of Motor Vehicles determines the driver has failed or refused to take the test, the license is revoked for 90 days or one year. (See 5 and 6)
10. If the Director of Motor Vehicles determines that the driver did not fail or refuse the test, the revocation is dismissed and the license is returned.
11. If the driver disputes the decision by the Director, an appeal can be filed with the district court.